

EX PARTE OR LATE FILED



Whitney Hatch
Assistant Vice President
Regulatory Affairs

GTE Service Corporation
1850 M Street, N.W., Suite 1200
Washington, D.C. 20036
202 463-5290

December 20, 1996

RECEIVED

DEC 20 1996

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**EX PARTE: Accounting Safeguards (CC Docket No. 96-150) & Transactions
Between Carriers and their Affiliates (CC Docket No. 93-251)**

Dear Mr. Caton:

Following conversations today with Messrs. Nakahata, Casserly and Gonzalez on the above-captioned proceedings, I provided copies of the attached letter to Pete Belvin of Commissioner Quello's office, Jim Casserly of Commissioner Ness' office, Dan Gonzalez of Commissioner Chong's office, to John Nakahata of Chairman Hundt's office and to Kathy Levitz and Ken Moran of the Common Carrier Bureau. Please include copies of this letter into the record of the above-captioned proceedings.

Please call me if you have any questions.

Sincerely,

Whitney Hatch

Attachment

No. of Copies rec'd
List ABCDE

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Whitney Hatch
Assistant Vice President
Regulatory Affairs

GTE Service Corporation
1850 M Street, N.W., Suite 1200
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202 463-5290

December 20, 1996

Mr. James Casserly
Senior Legal Advisor
Office of Commissioner Ness
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**RE: Accounting Safeguards (CC Docket No. 96-150) & Transactions Between Carriers
and their Affiliates (CC Docket No. 93-251)**

Dear Jim:

The following is a more succinct presentation of the concerns I expressed to you regarding prevailing price. Should the Commission adopt a "bright line" threshold for outside sales, below which carriers would not be permitted to employ prevailing price to value affiliate transactions, we recommend that the Commission also permit carriers to employ an alternative showing (outlined below) to justify prevailing price. This showing either should be explicitly provided for in the Commission's rules or available to carriers on a case-by-case basis when filing annual Cost Allocation Manual changes pursuant to Section 64.903(b).

In our view, the use of prevailing market price is of sufficient benefit to the ratepayer that specific consideration should be given to its application on an individual Local Exchange Company (LEC) basis. The record of the benefits of prevailing price is lengthy. Within comments to the proceedings captioned above the industry is practically unanimous in its support. GTE does not seek to recreate this record.

Simply, we recommend that determining whether "prevailing price" exists should be a sound factual determination based on a review of relevant circumstances rather than an arbitrary cut-off based on only one consideration, ratio of unaffiliated sales. As an alternative showing, carriers should be permitted to present and have considered all significant facts showing the existence of a prevailing price. For example, in addition to a percentage of outside sales, the Commission should permit the use of prevailing price if: (1) total amount of nonaffiliated sales is in excess of five million dollars, or (2) average annual growth rate of non-affiliate sales over a three-year period is in excess of the industry average, or (3) twenty-five non-affiliated customers purchase in excess of \$100,000 per year. Companies should be permitted to make a showing employing any one of these attributes or all of them in aggregate.

For your information the GTE Telephone operating Companies (GTOCs) apply the use of a

prevailing market price in valuing transactions with two significant affiliated companies, GTE Data Services (GTEDS) and GTE Supply (Supply). GTEDS and Supply are separate corporations from the GTOCs and operate at arms length with all transactions subject to negotiated contract. We believe both affiliates operate in the competitive marketplace in such volume that a true prevailing market price is derived. This position has been attested to by Arthur Andersen during their independent audit of GTE's application of Part 64 rules.

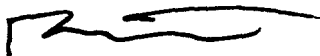
Within their audit report for 1995 Arthur Andersen noted the following statistics:

- Supply and GTEDS sales to nonaffiliated third parties were 27 percent and 16 percent of their total sales respectively. Testing within this process could be expanded to include the following details which provide support to our claim that substantial third party sales occur.
 - First a schedule noting the history of nonaffiliated sales could be included. This schedule would note that both Supply and GTEDS had a sales volume to nonaffiliated parties of \$202 million and \$145 million respectively.
 - Both have increased third party sales by over \$100 million during the period 1990 to 1995 (18.6% and 27.1% respectively.)
 - GTEDS alone had 17 customers in 1994 and 23 customers in 1995 each generating more than \$1 million in sales volume.

We believe that opportunities to present these factual considerations to the Commission should be available to GTE and to other carriers seeking to justify the clear presence of prevailing market price. We would favor either the availability of such a showing in the Commission's rules as an alternative to the arbitrary outside sales ratio or the ability to make such a showing on a case-by-case basis in annual Cost Allocation Manual filings.

Please let me know if you have any questions about this information.

Sincerely,



Whitney Hatch

c: P. Belvin
D. Gonzalez
K. Levitz
K. Moran
J. Nakahata
FCC Secretary